IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.306 OF 2005
IN
COMPANY PETITION NO.52 OF 1997

C.D. Security Services Network Ltd. ....Appellant
V/s.
The Official Liquidator of
M/s.Vikram Projects Ltd. ....Respondent

Ms.Shakuntala Joshi i/b Anand Poojari for the Appellant.
Mrs.Swati Deshpande i/b M.S. Bodhanwala & Co. for Bank of Baroda.
Mr.P.G. Rao - Official Liquidator present.

CORAM : A.P. SHAH AND
S.J. VAZIFDAR, JJ.
DATED : 19TH APRIL, 2005.

P.C. :

1. This is an Appeal against the order of the learned single Judge on the report of the Official Liquidator directing that the sale proceeds and the assets be handed over by him to the Recovery Officer of the Indian Bank and Bank of Baroda.

2. The Official Liquidator had appointed the Appellant to provide security guards to safeguard the moveable and immovable assets of the Company in liquidation. The Appellant claims Rs.38,79,586/- towards payment of their dues for the said services.

3. We do not consider at this stage to adjudicate upon all the rights and available remedies of the Appellant against various parties including the secured creditors and the Official Liquidator to recover the said amounts. At this stage, it would be sufficient to direct the Official Liquidator to verify the amounts due to the Appellant and make an application to the Debt Recovery Tribunal for payment of the same. It is only fair that as the Appellant had provided the security services in respect inter-alia of the assets secured in favour of the secured creditors, they be paid the said dues from out of the sale proceeds before the same are disbursed to the secured creditors.

4. Mrs.Deshpande, the learned counsel appearing on behalf of the Bank of Baroda stated that she has no objection to the same. It is pertinent to note that A.M. Khanwilkar, J. by an order dated 12th March, 2004 has clearly observed that when the Official Liquidator took possession of the concerned property, prior notice was given to all the secured creditors including the Bank of Baroda and Indian Bank at Mehsana. The representative of the Indian Bank was present when possession of the property at Mehsana,

was taken. Even the number of secured guards was mentioned in the minutes of the said meeting at Mehsana and at Sinnar. Even before the report of the Court Receiver dated 4th December, 2002 was accepted by the Court on 23rd January, 2003, ratifying the appointment of the Appellant as security agency, all the secured creditors were duly served. Only Bank of Baroda chose to appear.

5. In the circumstances, the following order is passed :-

i). The Official Liquidator shall verify the amounts due and payable to the Appellant and thereafter make an application to the Debt Recovery Tribunal for payment of the same to the Appellant.

ii). The Appellant and the secured creditors are at liberty to appear before the Debt Recovery Tribunal and make submissions in respect of the amount payable to the Appellant.

iii). The amounts so determined shall be payable to the Appellant prior to any amounts being

disbursed in favour of the secured creditors.

. The Appeal is accordingly disposed of.